

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**WELLS FARGO BANK, NA,
Plaintiff,**

v.

Case No. 12-CV-01100

**ALFRED ALEXANDER FLORES, and
VIRGINIA MARIE FLORES,
Defendants.**

DECISION AND ORDER

On October 30, 2012, pro se defendants Alfred and Virginia Flores removed this mortgage foreclosure action from Racine County Circuit Court. Plaintiff Wells Fargo Bank, N.A. now moves to remand the case to state court under 28 U.S.C. § 1447(c) because the notice of removal was untimely. If the case stated by a plaintiff's initial pleading is removable, then a defendant has 30 days from his or her receipt of a copy of the initial pleading or summons to file a notice of removal. 28 U.S.C. § 1446(a). "If the case stated by the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the defendant . . . of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." 28 U.S.C. § 1446(b)(3).

Defendants contend that the case stated in plaintiff's initial pleading was removable on the basis of diversity jurisdiction under 28 U.S.C. § 1332. As a result, defendants had 30 days from their receipt of that pleading to file a notice of removal. It is unclear from the state court docket when defendants were served with the complaint, but they answered the

complaint on May 27, 2011. So, at most, they had 30 days from that date to file a notice of removal. They clearly missed this deadline. Therefore, I will grant the motion to remand. Because I find that the notice of removal was untimely, I will not address plaintiff's argument that this court is barred from reviewing the case because the state court has already entered final judgment.

THEREFORE, IT IS ORDERED that plaintiff's motion to remand [DOCKET #6] is **GRANTED**.

Dated at Milwaukee, Wisconsin, this 2nd day of January 2013.

s/ Lynn Adelman

LYNN ADELMAN
District Judge